UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

WEB TELEPHONY, LLC., an Illinois corporation, Plaintiff, vs. Verizon Communications, Inc., a Delaware corporation, AT&T Corp., a New York corporation, AT&T Inc., a Delaware corporation, EarthLink, Inc., a Delaware corporation, SunRocket Corp., a Delaware corporation, Vonage Holdings Corp., a Delaware corporation, and Vonage America, Inc., a Delaware corporation, Defendants.	CASE NO. 2:07-CV-85 (DF) **JURY DEMANDED**

PLAINTIFF AND COUNTERDEFENDANT WEB TELEPHONY, LLC'S REPLY TO COUNTERCLAIMS OF EARTHLINK, INC.

Plaintiff and Counterdefendant, Web Telephony, LLC ("Web Telephony") hereby answers the counterclaims of Defendant EarthLink, Inc. ("EarthLink"). The paragraphs in this reply are numbered to correspond with the paragraph numbers in EarthLink's counterclaims; accordingly, the first numbered paragraph is number 1. All of the allegations of the counterclaims not specifically admitted herein are specifically denied.

AUS:3925448.1
55223.1

Dockets.Justia.com

Answer to Counterclaims

Nature of Action

1. Web Telephony admits that EarthLink seeks a declaratory judgment that the claims of the ‘694 Patent and the ‘266 Patent are not and have not been infringed by EarthLink and that the claims of the ‘694 Patent and the ‘266 Patent are invalid, void, or unenforceable.

Jurisdiction and Venue

2. Web Telephony admits the allegations contained in paragraph 2 of EarthLink’s counterclaims.

3. Web Telephony admits the allegations contained in paragraph 3 of EarthLink’s counterclaims.

Parties

4. Web Telephony admits the allegations contained in paragraph 4 of EarthLink’s counterclaims.

5. Web Telephony admits the allegations contained in paragraph 5 of EarthLink’s counterclaims.

6. Web Telephony admits the allegations contained in paragraph 6 of EarthLink’s counterclaims.

Background

7. Web Telephony admits the allegations contained in paragraph 7 of EarthLink’s counterclaims.

8. Web Telephony admits the allegations contained in paragraph 8 of EarthLink’s counterclaims.

9. Web Telephony admits the allegations contained in paragraph 9 of EarthLink’s counterclaims.

10. Web Telephony admits the allegations contained in paragraph 10 of EarthLink’s counterclaims.

11. Web Telephony admits the allegations contained in paragraph 11 of EarthLink's counterclaims.

Count I:

12. Web Telephony incorporates by references its response to the allegations of paragraphs 1 through 11 of EarthLink's Counterclaims. Except as expressly admitted, Web Telephony denies each of the allegations of paragraph 12.

13. Web Telephony admits the allegations contained in paragraph 13 of EarthLink's counterclaims.

14. Web Telephony denies the allegations contained in paragraph 14 of EarthLink's counterclaims.

15. Web Telephony admits that EarthLink seeks a declaration that it does not directly infringe, has not induced the infringement of, and has not contributed to the infringement of any valid claims of the '694 and the '266 Patent, either literally or under the doctrine of equivalents.

Count II:

16. Web Telephony incorporates by references its response to the allegations of paragraphs 1 through 15 of EarthLink's Counterclaims. Except as expressly admitted, Web Telephony denies each of the allegations of paragraph 16.

17. Web Telephony denies the allegations contained in paragraph 17 of EarthLink's counterclaims.

18. Web Telephony admits that EarthLink seeks a declaration that the claims of the '694 Patent and the '266 Patent are invalid, void, and/or unenforceable.

Jury Demand

Plaintiff and Counterdefendant Web Telephony demands trial by jury of all issues.

Prayer for Relief.

Web Telephony denies that EarthLink is entitled to the relief it seeks or any relief for the allegations made in its counterclaims.

Dated: May 29, 2007

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF,
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CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 29th day of May, 2007, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/Elizabeth L. DeRieux
Elizabeth L. DeRieux